

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
FLORENCE DIVISION

Ronald De'Ray Skipper,

PLAINTIFF

v.

Jumpstart; Dave Johnson, Insider
Coordinator; Cary Sanders, Inside
Director,

DEFENDANTS

Case No. 4:20-cv-04146-TLW

Order

Plaintiff Ronald De'Ray Skipper, a South Carolina Department of Corrections (SCDC) inmate proceeding pro se, filed this civil action in state court alleging various federal and state causes of action against Jumpstart—a non-profit entity involved in rehabilitative efforts at SCDC—and two individuals associated with the organization. ECF No. 1-1. Defendants Jumpstart and Sanders removed the case to federal court and soon after filed a motion to dismiss. ECF Nos. 1, 8. The magistrate judge issued a *Roseboro* order, informing Skipper that his response to the motion to dismiss was due by January 11, 2021 and that if he failed to timely respond, his case would be subject to dismissal. ECF No. 9.

Before that deadline ran, Skipper filed a motion for an extension of time, which the magistrate judge granted, giving him until February 12, 2021 to file his response. ECF Nos. 11, 12. He then filed a second motion for an extension of time, which the magistrate also granted, extending the deadline to March 15, 2021. But he did not file a response.

On March 24, 2021, nine days after the deadline ran, the magistrate judge issued a Report and Recommendation (Report) recommending that Skipper's case be dismissed pursuant to Rule 41(b) for failure to prosecute and failure to comply with a court order, and giving him until April 7, 2021 to file objections to the Report. ECF No. 17. On that date, he submitted three filings: (1) objections to the Report,¹ ECF No. 20; (2) a third motion for an extension of time to file a response to the motion to dismiss, ECF No. 21; and (3) a response in opposition to the motion to dismiss, ECF No. 22.

Skipper's objections and motion for an extension of time (with an accompanying affidavit) provide a detailed explanation of why he missed the March 15 deadline. These filings reflect that on March 10, he went to the medical facility at his institution for an examination, during which the nurse performed an electrocardiogram. He was immediately transported to the hospital. The next day, he underwent a procedure to correct an irregular heartbeat. He was scheduled to be discharged the following day, March 12. But early that morning, he developed a high fever and was placed on IV antibiotics, so he was not discharged from the hospital that day. Several days later, on March 16, it was discovered that he had contracted Methicillin-resistant *Staphylococcus aureus* (MRSA), a type of antibiotic-resistant bacteria that causes staph infections. He remained in the hospital for treatment until March 30, at which point he was returned to his institution.

¹ His filing is titled, "Motion to Alter/Amend Report and Recommendation and/or Rule 60(b), FRCP, for Relief From Report and Recommendation," but the Clerk properly docketed it as an objection.

Skipper says that during his stay in the hospital, he was chained to his bed the entire time and had no access to any writing materials, legal materials, mail, or phone. He says that he “would never abandon, nor intentionally miss a court deadline that would cause the dismissal of this action.” ECF No. 21-1 at 7.

The Court notes that Skipper’s inmate report, which is publicly-available on SCDC’s website² and will be appended to this order, confirms the accuracy of the timeline he conveyed. The report reflects that he was transferred to “Outside Medical” on March 10 and that he did not return to his institution until March 30.

In this situation, the Court concludes that Skipper has provided justification to allow his case to proceed. It is apparent that he neither willfully failed to prosecute his case nor willfully failed to comply with a court order. Accordingly, his objection to the Report, ECF No. 20, is **SUSTAINED**, and his motion for an extension of time, ECF No. 21, is **GRANTED**.

This matter is recommitted to the magistrate judge for consideration of the motion to dismiss on the merits.

IT IS SO ORDERED.

s/ Terry L. Wooten
Terry L. Wooten
Senior United States District Judge

April 23, 2021
Columbia, South Carolina

² <http://public.doc.state.sc.us/scdc-public/>